THE HONOUABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 16030 of 2007

Date:27-07-2007

Between:

Princess Fatima Fouzia .. **PETITIONER**

AND

The S.H.O.P.S., Banjara Hills, Hyderabad and two others ..

RESPONDENTS

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ORDER:

The petitioner seeks a writ of mandamus to declare the action of the first respondent in interfering with the petitioner's constitutional and fundamental rights in respect of her rights over the property at Mount Pleasant, Banjara Hills, Hyderabad, as illegal and arbitrary.

It is the case of the petitioner that she is the daughter of late Walasahan Prince Muazam Jah Bahadur who was the son of the Nizam VII of Hyderabd Nawab Mir Osman Ali Khan Bahadur. The said Nawab Mir Osman Ali Khan Bahadur Nizam VII during his life time created Prince Moazam Jah Bahadur Trust for the benefit of Prince Moazam Jah and his issues and the said trust has been included in the list of trust deeds . It is stated that an extent of Ac.24.10 guntas popularly known as Mount Pleasant property was settled upon the trust and the same had to be held for the benefit of the Moazam Jah during his life time and after his demise the said property was to be allotted and divided amongst the children of late Moazam Jah. It is stated that after the demise of Moazam Jah the said property was not divided and the rightful share of the petitioner was not allotted to her. As various steps being resorted to by the trustees, the petitioner approached the Chief Judge, City Civil Court, Hyderabad and filed the suit O.S.No.464 of 2006 for the relief of partition and allotment of the petitioner's share of

Ac.6.00 guntas and the said Court by order, dated 02.11.2006 granted interim injunction in favour of the petitioner in I.A.No.3815 of 2006 restraining the respondents therein from inter meddle with the petition schedule property i.e. all that property commonly known as Mount Pleasant bearing MCH NO.8-2-249 to 269, admeasuring about

Ac.24.10 guntas of 117.370 square yards or 98.136.578 square metres with building of stone, brick mortar and RCC construction, outhouses, compound, compound walls and other adjuncts and appurtenances held therewith and part thereof in Shaikpet village, Road No.2, Banjara Hills, Hyderabad till 15.11.2006. It is stated that the said injunction order has been made absolute on 28.02.2007.

It is the case of the petitioner that in spite of the said civil Court order restraining the defendants in the said suit including the third respondent herein who is the defendant No.4 in the said suit using its trustees influence over the respondents

1 and 2 is creating nuisance over the property and the respondents 1 and 2 are summoning the petitioner for the purpose of production of documents for proving their rights.

About the alleged interference by the respondents

1 and 2, the petitioner did not make a representation before the higher authorities or made any protest about the alleged inaction of the police. So, in the absence of any representation with regard to the illegal interference of the respondents 1 and 2 relating to her civil rights or possession over the property, the competent civil Court can only decide the civil disputes. Further, if there is any

violation of any injunction order, it is for the petitioner to approach the Civil Court where the civil dispute is pending and get appropriate orders. Therefore, no writ of mandamus can be issued. Hence, I see no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. However, this order will not preclude the petitioner to approach the Civil Court and obtain appropriate orders. No costs.

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V.ESWARAIAH, J.

Date:27.07.2007
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